

HOUSE JOINT RESOLUTION NO. 19

INTRODUCED BY M. REINHART

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESS TO REQUIRE CONSULTATIONS WITH ALL STATES AND REPRESENTATIVES OF STATE LEGISLATURES PRIOR TO AND DURING THE CONSULTATION PHASES OF INTERNATIONAL TRADE AGREEMENTS AND URGING AN ALTERNATE MECHANISM TO THE OUTDATED "FAST TRACK" SYSTEM FOR NEGOTIATING INTERNATIONAL TRADE AGREEMENTS.

WHEREAS, states recognize that development of international trade agreements are the purview of the federal government, with approval by Congress, but that these trade agreements impact and potentially alter or nullify some laws and procedures in states; and

WHEREAS, development of international trade agreements involves give-and-take among or between countries but previously has involved little or incomplete discussions that take into consideration state laws, policies, and programs, in a process that ignores the partnership of states and federal government that underlies part of the concept of federalism and the close-to-the-people representative democracies that state legislatures embody; and

WHEREAS, the National Conference of State Legislatures has adopted policies critical of free trade agreements that prohibit state and local governments from imposing technical specifications in public contracts that may be considered "unnecessary" barriers to trade; and

WHEREAS, state assistance to higher education may come into question during negotiations on services under the General Agreement on Trade in Services despite concerns voiced by the National Conference of State Legislatures about interference with local education choices and policies; and

WHEREAS, fair trade can be universally beneficial and can improve economic well-being by being the welcome tide that raises all ships, but fair trade is not synonymous with free trade and fair trade is only fair if all parties to a discussion are consulted, particularly parties far from the political capitals where these negotiations are conducted yet on whom the negotiated agreements are imposed; and

WHEREAS, the People's Republic of China has contacted state legislators to challenge bills in various state legislatures related to regulations of lead content in toys, certain hazardous chemicals in children's apparel, or recycling programs for electronic waste, and while truly free speech allows the Chinese this contact, the

1 National Conference of State Legislatures has said the Chinese became aware of the bills because of a
2 notification provision in a World Trade Organization agreement dealing with technical barriers to trade, which
3 requires the federal government to notify other World Trade Organization trading partners of pending technical
4 regulations that impact trade; and

5 WHEREAS, enforcement provisions in the North American Free Trade Agreement (NAFTA) and similar
6 free trade agreements raise concerns that challenges of state laws by foreign investors are heard before an
7 international tribunal instead of state courts and that the federal government could enforce tribunal rulings under
8 international trade agreements against states by preemptive legislation, lawsuits, or cutting off federal funding;
9 and

10 WHEREAS, the current encroachment on state regulatory authority by international trade agreements
11 has occurred in no small part because U.S. trade agreements have been formulated and implemented under
12 "Fast Track" trade negotiating procedures that strictly limit the role of Congress and exclude any meaningful role
13 for states in trade policymaking.

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15 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE
16 STATE OF MONTANA:

17 That Congress is urged to require that prior to and during negotiations on trade agreements, the Office
18 of the U.S. Trade Representative expand beyond its State Single Point of Contact system to include contacts with
19 representatives of all state legislatures in recognition of the legislative branch prerogative of establishing policy
20 so that state legislators may be consulted on state issues that may be affected by trade agreements.

21 BE IT FURTHER RESOLVED, that the Office of the U.S. Trade Representative be directed to contact
22 all state governors and representatives of all state legislatures prior to presentation of a trade agreement to
23 Congress and that the governors and legislative representatives in states particularly affected by provisions of
24 a trade agreement be informed directly of those provisions.

25 BE IT FURTHER RESOLVED, that Congress create a replacement for the outdated "Fast Track" system,
26 which would include an explicit mechanism for ensuring the prior informed consent of state legislatures before
27 states are bound to the nontariff terms of any trade agreement that affects state regulatory authority and that is
28 intended to ensure that the U.S. Trade Representative respect the policies adopted by the states.

29 BE IT FURTHER RESOLVED, that copies of this resolution be sent by the Secretary of State to President
30 Barack Obama, Acting U.S. Trade Representative Ambassador Peter Allgeier, the Majority Leader of the U.S.

1 Senate, the Speaker of the U.S. House of Representatives, and the Montana Congressional Delegation.

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